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February 21, 2011

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: ***Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, RM-11592***

In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket 05-265

Dear Ms. Dortch:

This letter is submitted to address a number of omissions in AT&T's February 17, 2011 response (AT&T's Response) to Cellular South's February 16, 2011 letter regarding several statements made by AT&T's Chairman and CEO Randall Stephenson in Barcelona during the Mobile World Congress last week.

AT&T's Response does not dispute that its Chairman and CEO endorsed interoperability in numerous statements during his speech in Barcelona. In fact, AT&T's Response does not provide a single contrary quotation or other record of Mr. Stephenson's speech.

Instead, AT&T's Response attempts to divert attention from the fact that its Chairman and CEO expressed unconditional support for interoperability across *spectrum*. Mr. Stephenson's presentation even included a reference to the growth of text messaging that resulted from removing carrier-specific barriers. Once wireless customers had the ability to communicate across carriers, text-messaging exploded. Of course, this was also during the time that devices utilizing a common air interface were interoperable across spectrum. The same growth will only continue if there is continued interoperability across spectrum—specifically, from the removal of carrier-specific barriers to interoperability in the 700 MHz spectrum. As Mr. Stephenson said:

> "Spectrum is going to play a huge role [globally], especially as we move to 4G. It's most important that **regulators have to be aware of this if we want to create interoperability across geographies** and countries."[1]

AT&T's Response also[2] makes the unremarkable point that "[c]arriers have always offered devices that operate in the spectrum deployed in their networks." The response fails to mention that carriers also have always (until the 700MHz

[1] Hamblen, M., "AT&T chairman urges open devices, platforms and networks globally," *Computer World* (February 15, 2011) (emphasis added) ("Computer World Article").

LTE ecosystem) offered devices that operate *across the entire spectrum band* in which they hold licenses. As Cellular South has noted in a previous filing:

> As we continue to press forward with efforts to deploy a 4G LTE network, interoperability becomes fundamental to our customers' ability to roam on other carriers' LTE networks. Currently, each device that we sell for use on either our CDMA or GSM network is built to operate across the Cellular spectrum, PCS spectrum and, increasingly, AWS spectrum.
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> Until recently, all devices built to operate in any specific part of a spectrum band were technologically capable of operating across all paired spectrum within the given band. The only difference between devices was the air interface technology (i.e. CDMA or GSM). In other words, all devices were developed to be interoperable across the entirety of a given block of spectrum (e.g., all Cellular devices are interoperable across the Cellular spectrum, all PCS devices are interoperable across the PCS spectrum, and all AWS devices are interoperable across the AWS spectrum). This is not true for the 4G LTE networks being deployed on the 700 MHz spectrum even though they use a common air interface technology.[3]

AT&T and Verizon have leveraged their duopoly in an effort to shut out competition in the 700 MHz spectrum band. Again, as we have stated before:

> The 700 MHz spectrum has been fragmented into distinct Band Classes and the two largest holders of 700 MHz spectrum - AT&T and Verizon - have deployed essentially proprietary LTE networks and devices that work only on their spectrum. Given the enormity of the economic scale of AT&T and Verizon, these two carriers are the de facto "market" for LTE devices and equipment that operate at 700 MHz. Outside of this "market," it is not economically feasible for any other carrier to obtain LTE equipment or devices to operate in non-AT&T or non-Verizon 700 MHz bands.
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> Even if it were economically feasible for carriers to obtain LTE equipment and devices in non-AT&T and non-Verizon 700 MHz bands, roaming from one carrier's network to another will not be possible without interoperable devices. The "market" is not developing these devices, and Cellular South cannot justify the added expense of developing them on our own without the assurance that our customers will have LTE roaming at just and reasonable rates. Given the failure of the market to foster interoperable LTE deployment, only an interoperability requirement – like that imposed in 1981 by the Reagan FCC – can solve this problem.[4]

We, therefore, agree with Mr. Stephenson's statement that: "If our object is to grow the [wireless] pie, **interoperability is necessary**." And the best way to grow "the wireless pie" is with next generation technologies.[5]

AT&T's 2G and 2.5G GSM roaming agreements are not the foundation for the growth of any of today's wireless carriers. And while AT&T has made some general disclosures regarding its voice and less-than-3G roaming agreements to the Commission, there is a distinct absence of any data regarding the reasonableness of the terms of any 3G roaming agreements AT&T has been recently "offering" to smaller carriers. In our experience, such data likely would reveal that AT&T is not acting in a manner that would encourage 3G roaming, nor in a manner consistent with Mr. Stephenson's

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[2] AT&T also pauses to note a typo in Cellular South's February 16 letter. It is correct that AT&T's LTE network will operate in its proprietary Band Class 17, while Verizon's will operate in Band Class 13. AT&T, however, failed to mention that its Band Class 17 was carved out of Band Class 12 (where most smaller, competitive carriers' licenses lie) *after* Auction 73 was closed.
[3] Cellular South's February 9, 2011, *ex parte* submission in this same proceeding, at p. 2.
[4] Id.
[5] Computer World Article (emphasis added).

observation that "[t]he **customer expectation for an open and seamless [wireless] environment will only increase** and the more we facilitate that openness, [the better]."[6]

AT&T's Response further mischaracterizes the state of roaming for current generation technologies, stating that Cellular South's "coverage maps clearly demonstrate" nationwide 3G coverage. While this statement is true with respect to CDMA – a technology that AT&T does not offer – it is simply incorrect when considering Cellular South's GSM network which, of course, is the air interface technology that AT&T uses. Cellular South's GSM network was formerly owned by Corr Wireless, a carrier to whom AT&T consistently refused 3G roaming. AT&T has continued that posture since Cellular South's acquisition with the single notable exception of an economically impossible roaming offer made just a few days prior to an AT&T meeting with the Commission to discuss data roaming in November of 2010.

Instead of reinforcing these market failures that reduce the speed and breadth of 4G in this deployment we again urge the Commission, AT&T and Verizon to act on Mr. Stephenson's advice to foster an open and interoperable mobile broadband environment. As he said, "**[a]n open and interoperable environment ... will drive mobile broadband** and mobile broadband with the cloud will drive the next wave."[7] That common sense conclusion is reflected in the filings of nearly *every* member of the wireless carrier community on the issue of interoperability and a data roaming obligation. Specifically, we have said:

> A data roaming obligation similar to the current voice roaming obligation (and the assurance of interoperable 700 MHz devices within the very short term) would provide Cellular South with certainty on the fundamental issue preventing rapid deployment of substantial capital for the construction of new 4G facilities within its current operating areas and its larger 700 MHz license footprint. While Cellular South has made an announcement regarding a very limited LTE deployment to remain competitive within its current market in the near-term, the deployment is just that: very limited.
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> The capital needed for an extensive deployment of LTE across the company's 700 MHz license area was secured prior to Auction 73. This capital, which could be creating jobs through the construction and operation of new cell sites, towers, and retail locations, has remained sidelined as a result of the lingering uncertainty surrounding data roaming and interoperability. Should the FCC end this uncertainty, the Commission can be assured that announcements of job-creating network upgrades and expansions would follow.[8]

Cellular South continues to welcome Mr. Stephenson's support for interoperability and his explicit recognition of the positive economic impacts this simple change in public policy could have on the entire mobile broadband marketplace.

In accordance with the Commission's rules, this letter is being filed electronically for inclusion in the public record.

Sincerely,

/s/ Eric Graham

Eric Graham
Vice President, Strategic and Government Relations

cc: Ruth Milkman, Chief, Wireless Telecommunications Bureau
James Schlichting, Senior Deputy Chief, Wireless Telecommunications Bureau

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[6] Id (emphasis added).
[7] Id (emphasis added).
[8] Cellular South's February 9, 2011, *ex parte* submission in this same proceeding, at p. 3.